

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Nintendo of America Incorporated,
Plaintiff,

v.

Jacob Mathias, et al.,
Defendants.

No. CV-18-02282-PHX-SPL

ORDER

This case is part of the Mandatory Initial Discovery Pilot project (“MIDP”) being conducted in the District of Arizona under General Order 17-08. Under the MIDP, parties must respond to mandatory initial discovery subjects early in the litigation and before traditional discovery begins under the Federal Rules of Civil Procedure. General Order 17-08, ¶ (A)(2). The parties are to address their compliance with the MIDP in their Rule 26(f) report and at the Rule 16 case management conference. *Id.*, ¶ (A)(9).

The General Order provides that “[a] party seeking affirmative relief must serve its responses to the mandatory initial discovery no later than 30 days after the first pleading filed in response to its complaint, counterclaim, crossclaim, or third-party complaint.” *Id.*, ¶ (A)(6). It further provides that “[a] party filing a responsive pleading, whether or not it also seeks affirmative relief, must serve its initial discovery responses no later than 30 days after it files its responsive pleading.” *Id.*¹

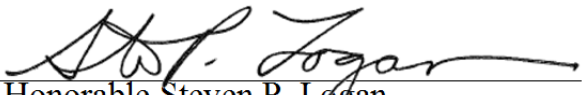
¹ These requirements do not apply if the parties certify that no discovery will be conducted in the case, and may be extended for 30 days if the parties jointly certify to the Court that they are seeking to settle the case and have a good faith belief that it will be resolved within 30 days of the due date for their responses. *Id.*

1 Defendants in this case have requested an extension of the time to answer the
2 complaint (Doc. 20). The Court concludes that the parties have shown good cause, and
3 will grant a one-time extension for Defendants to respond to the complaint. Because the
4 effectiveness of the MIDP depends in part on early disclosures, the Court will not grant
5 additional extensions. Thus, the parties' obligations to produce the information called for
6 in the MIDP will be triggered by Defendants' response to the complaint after the
7 extension.

8 The parties should be aware that the filing of a motion to dismiss under
9 Rule 12(b)(6) will not postpone the time for compliance with the MIDP. The General
10 Order provides that compliance may be deferred only for motions to dismiss based on
11 lack of subject-matter jurisdiction, lack of personal jurisdiction, sovereign immunity, or
12 absolute or qualified immunity of a public official. *Id.*, ¶ (A)(5).

13 **IT IS ORDERED** that Defendants' time to respond to the complaint is extended
14 to **September 12, 2018**. No further extensions will be granted.

15 Dated this 28th day of August, 2018.

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18 Honorable Steven P. Logan
19 United States District Judge
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